



House of Representatives

General Assembly

File No. 460

February Session, 2000

Substitute House Bill No. 5785

House of Representatives, April 6, 2000

The Committee on Judiciary reported through REP. LAWLOR of the 99th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

An Act Concerning Victim's Rights.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 54-210 of the general statutes, as amended by
2 section 1 of public act 99-128 and section 4 of public act 99-184, is
3 repealed and the following is substituted in lieu thereof:

4 (a) The Office of Victim Services or a victim compensation
5 commissioner may order the payment of compensation under this
6 chapter for: (1) Expenses actually and reasonably incurred as a result
7 of the personal injury or death of the victim, provided coverage for the
8 cost of medical care and treatment of a crime victim who does not have
9 medical insurance or who has exhausted coverage under applicable
10 health insurance policies or Medicaid shall be ordered; (2) loss of
11 earning power as a result of total or partial incapacity of such victim;
12 (3) pecuniary loss to the spouse or dependents of the deceased victim,
13 including zero to one per cent loans of up to one hundred thousand
14 dollars, with repayment beginning five years from the date the loan

15 was awarded, provided the family qualifies for compensation as a
16 result of murder or manslaughter of the victim; (4) pecuniary loss to
17 the relatives or dependents of a deceased victim for attendance at court
18 proceedings with respect to the criminal case of the person or persons
19 charged with committing the crime that resulted in the death of the
20 victim; and (5) any other loss, except as set forth in section 54-211,
21 resulting from the personal injury or death of the victim which the
22 Office of Victim Services or a victim compensation commissioner, as
23 the case may be, determines to be reasonable. At the discretion of said
24 office or victim compensation commissioner, there shall be one
25 hundred dollars deductible from the total amount determined by said
26 office or victim compensation commissioner.

27 (b) Payment of compensation under this chapter may be made to a
28 person who is a recipient of public assistance, state-administered
29 general assistance or general assistance for necessary and reasonable
30 expenses related to injuries resulting from a crime and not provided
31 for by the income assistance program in which such person is a
32 participant. Unless required by federal law, no such payment shall be
33 considered an asset for purposes of eligibility for such assistance.

34 Sec. 2. Section 12-146 of the general statutes, as amended by section
35 2 of public act 99-128, is repealed and the following is substituted in
36 lieu thereof:

37 Unless the context otherwise requires, wherever used in this section,
38 "tax" includes each property tax and each instalment and part thereof
39 due to a municipality as it may have been increased by interest, fees
40 and charges. If any tax due in a single instalment or if any instalment
41 of any tax due in two or more instalments is not paid in full (1) on or
42 before the first day of the month next succeeding the month in which it
43 became due and payable, or if not due and payable on the first day of
44 the month, (2) on or before the same date of the next succeeding month
45 corresponding to that of the month on which it became due and

46 payable, the whole or such part of such instalment as is unpaid shall
47 thereupon be delinquent and shall be subject to interest from the due
48 date of such delinquent instalment. Except for unpaid real estate taxes
49 the collection of which was, or is, deferred under the provisions of
50 section 12-174, and any predecessor and successor thereto, which
51 unpaid real estate taxes continue to be subject to the provisions of such
52 deferred collection statutes, the delinquent portion of the principal of
53 any tax shall be subject to interest at the rate of eighteen per cent per
54 annum from the time when it became due and payable until the same
55 is paid, subject to a minimum interest charge of two dollars which any
56 municipality, by vote of its legislative body, may elect not to impose,
57 and provided, in any computation of such interest, under any
58 provision of this section, each fractional part of a month in which any
59 portion of the principal of such tax remains unpaid shall be considered
60 to be equivalent to a whole month. Each addition of interest shall
61 become, and shall be collectible as, a part of such tax. Interest shall
62 accrue at said rate until payment of such taxes due notwithstanding
63 the entry of any judgment in favor of the municipality against the
64 taxpayer or [his] the property of the taxpayer. Except as hereinafter
65 specified for taxes representing two or more items of property, the
66 collector shall not receive any partial payment of a delinquent tax
67 which is less than the total accrued interest on the principal of such tax
68 up to the date of payment and shall apply each partial payment to the
69 wiping out of such interest before making any application thereof to
70 the reduction of such principal; provided, whenever the first partial
71 payment is made after delinquency, interest from the due date of such
72 delinquent tax to the date of such partial payment shall be figured on
73 the whole or such part of the principal of such tax as is unpaid at the
74 beginning of delinquency and provided, whenever a subsequent
75 partial payment of such tax is made, interest shall be figured from the
76 date of payment of the last-preceding, to the date of payment of such
77 subsequent, partial payment on the whole or such balance of the
78 principal of such tax as remains unpaid on the date of the last-

79 preceding partial payment. If any tax, at the time of assessment or
80 because of a subsequent division, represents two or more items of
81 property, the collector may receive payment in full of such part of the
82 principal and interest of such tax as represents one or more of such
83 items, even though interest in full on the entire amount of the principal
84 of such tax has not been received up to the date of such payment; in
85 which event, interest on the remaining portion of the principal of any
86 such tax shall be computed, as the case may be, from the due date of
87 such tax if no other payment after delinquency has been made or from
88 the last date of payment of interest in full on the whole amount or
89 unpaid balance of the principal of such delinquent tax if previous
90 payment of interest has been made. Each collector shall keep a separate
91 account of such interest and the time when the same has been received
92 and shall pay over the same to the treasurer of [his] the municipality of
93 the collector as a part of such tax. No tax or instalment thereof shall be
94 construed to be delinquent under the provisions of this section if the
95 envelope containing the amount due as such tax or instalment, as
96 received by the tax collector of the municipality to which such tax is
97 payable, bears a postmark showing a date within the time allowed by
98 statute for the payment of such tax or instalment. Any municipality
99 may, by vote of its legislative body, require that any delinquent
100 property taxes applicable with respect to a motor vehicle shall be paid
101 only in cash or by certified check or money order. Any municipality
102 adopting such requirement may provide that such requirement shall
103 only be applicable to delinquency exceeding a certain period in
104 duration as determined by such municipality. Any municipality [may,
105 by vote of its legislative body,] shall waive all or a portion of the
106 interest due and payable under this section on a delinquent tax with
107 respect to a taxpayer who has received compensation under chapter
108 968 as a crime victim.

109 Sec. 3. Section 54-91c of the general statutes, as amended by section
110 1 of public act 99-247, is repealed and the following is substituted in
111 lieu thereof:

112 (a) For the purposes of this section, "victim" means a person who is
113 a victim of a class A, B or C felony or a violation of section 53a-72a or
114 53a-72b, the legal representative of such person or a member of a
115 deceased victim's immediate family.

116 (b) Prior to the imposition of sentence upon any defendant who has
117 been found guilty of a class A, B or C felony or a violation of section
118 53a-72a or 53a-72b or has pleaded guilty or nolo contendere to any
119 class A, B or C felony or a violation of section 53a-72a or 53a-72b and
120 prior to the acceptance by the court of a plea of guilty or nolo
121 contendere made pursuant to a plea agreement with the state wherein
122 the defendant pleads to a lesser offense than the offense with which
123 [he] such defendant was originally charged, the court shall permit the
124 victim of the crime to appear before the court for the purpose of
125 making a statement for the record, including approval or disapproval
126 of any plea agreement. In lieu of such appearance, the victim may
127 submit a written statement or, if the victim of the crime is deceased,
128 the legal representative or a member of the immediate family of such
129 crime victim may submit a statement of such deceased crime victim to
130 the state's attorney, assistant state's attorney or deputy assistant state's
131 attorney in charge of the case. Such state's attorney, assistant state's
132 attorney or deputy assistant state's attorney shall file the statement
133 with the sentencing court and the statement shall be made a part of the
134 record at the sentencing hearing. Any such statement, whether oral or
135 written, shall relate to the facts of the case, the appropriateness of any
136 penalty and the extent of any injuries, financial losses and loss of
137 earnings directly resulting from the crime for which the defendant is
138 being sentenced. After consideration of any such statements, the court
139 may refuse to accept, where appropriate, a negotiated plea or sentence,
140 and the court shall give the defendant an opportunity to enter a new
141 plea and to elect trial by jury or by the court.

142 (c) Prior to the imposition of sentence upon such defendant and
143 prior to the acceptance of a plea pursuant to a plea agreement, the

144 state's attorney, assistant state's attorney or deputy assistant state's
145 attorney in charge of the case shall advise the victim of such crime of
146 the date, time and place of the original sentencing hearing or any
147 judicial proceeding concerning the acceptance of a plea pursuant to a
148 plea agreement, provided the victim or, if the victim of the crime is
149 deceased, the legal representative or a member of the immediate
150 family of such deceased crime victim has informed such state's
151 attorney, assistant state's attorney or deputy assistant state's attorney
152 that such victim wishes to make or submit a statement as provided in
153 subsection (b) of this section and has complied with a request from
154 such state's attorney, assistant state's attorney or deputy assistant
155 state's attorney to submit a stamped, self-addressed postcard for the
156 purpose of such notification. If the state's attorney, assistant state's
157 attorney or deputy assistant state's attorney is unable to notify the
158 victim or any family member of such victim if such victim is deceased,
159 such state's attorney, assistant state's attorney or deputy state's
160 attorney shall sign a statement as to such notification.

161 (d) Upon the request of a victim, prior to the acceptance by the court
162 of a plea of a defendant pursuant to a proposed plea agreement, the
163 state's attorney, assistant state's attorney or deputy assistant state's
164 attorney in charge of the case shall provide such victim with the terms
165 of such proposed plea agreement in writing.

166 (e) The provisions of this section shall not apply to any proceedings
167 held in accordance with section 46b-121 or section 54-76h.

168 Sec. 4. (NEW) A photograph of a deceased victim, that is a fair and
169 accurate representation of the victim and is not of itself inflammatory
170 in nature, may be displayed in the courtroom during a murder trial in
171 the presence of the jury.

172 Sec. 5. Section 54-63f of the general statutes is repealed and the
173 following is substituted in lieu thereof:

174 A person who has been convicted of any offense, except a violation
175 of section 53a-54a, 53a-54b, 53a-54c or 53a-54d or any offense involving
176 the use, attempted use or threatened use of physical force against
177 another person, and is either awaiting sentence or has given oral or
178 written notice of [his] such person's intention to appeal or file a
179 petition for certification or a writ of certiorari may be released pending
180 final disposition of the case, unless the court finds custody to be
181 necessary to provide reasonable assurance of [his] such person's
182 appearance in court, upon the first of the following conditions of
183 release found sufficient by the court to provide such assurance: (1)
184 Upon [his] such person's execution of a written promise to appear, (2)
185 upon [his] such person's execution of a bond without surety in no
186 greater amount than necessary, (3) upon [his] such person's execution
187 of a bond with surety in no greater amount than necessary, (4) upon
188 [his] such person's deposit, with the clerk of the court having
189 jurisdiction of the offense with which such person stands convicted or
190 any assistant clerk of such court who is bonded in the same manner as
191 the clerk or any person or officer authorized to accept bail, a sum of
192 money equal to the amount called for by the bond required by the
193 court, or (5) upon [his] such person's pledge of real property, the
194 equity of which is equal to the amount called for by the bond required
195 by the court, provided the person pledging such property is the owner
196 of such property. When cash bail is offered, such bond shall be
197 executed and the money shall be received in lieu of a surety or sureties
198 upon such bond. Such cash bail shall be retained by the clerk of such
199 court until a final order of the court disposing of the same is passed,
200 provided, if such bond is forfeited, the clerk of such court shall pay the
201 money to the payee named therein, according to the terms and
202 conditions of the bond.

203 Sec. 6. (NEW) A victim impact statement prepared by a victim
204 advocate to be placed in court files in accordance with subdivision (2)
205 of section 54-220 of the general statutes may be read in court prior to
206 imposition of sentence upon a defendant found guilty of a crime

207 punishable by death.

208 Sec. 7. (NEW) Any victim of a violent crime or the legal
209 representative or member of the immediate family of a victim who is
210 deceased shall be permitted to attend all court proceedings that are
211 part of the court record.

212 Sec. 8. Section 52-555 of the general statutes, as amended by public
213 act 99-42, is repealed and the following is substituted in lieu thereof:

214 (a) In any action surviving to or brought by an executor or
215 administrator for injuries resulting in death, whether instantaneous or
216 otherwise, such executor or administrator may recover from the party
217 legally at fault for such injuries just damages together with the cost of
218 reasonably necessary medical, hospital and nursing services, and
219 including funeral expenses, provided no action shall be brought to
220 recover such damages and disbursements but within two years from
221 the date of death, and except that no such action may be brought more
222 than five years from the date of the act or omission complained of.

223 (b) Notwithstanding the provisions of subsection (a) of this section,
224 an action may be brought under this section at any time after the date
225 of the act or omission complained of if the party legally at fault for
226 such injuries resulting in death has been convicted or found not guilty
227 by reason of mental disease or defect of a violation of section 53a-54a,
228 53a-54b, 53a-54c, [or] 53a-54d, 53a-55, 53a-55a, 53a-56, 53a-56a or 53a-
229 56b with respect to such death.

JUD Committee Vote: Yea 37 Nay 0 JFS

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact: Cost (General Fund and Criminal Injuries Compensation Fund)

Affected Agencies: Judicial Department, Department of Correction

Municipal Impact: Revenue Loss, Minimal Cost

Explanation**State Impact:**

The bill would result in a cost to the state by prohibiting the release of a person convicted of any offense involving the use, attempted use, or threatened use of physical force from being released on bail while awaiting sentencing or appealing his conviction. This could result in an additional number of individuals being incarcerated rather than being released on bail. The extent to which this may occur is unknown. The average annual cost of imprisonment is about \$25,000 per inmate.

The bill also eliminates the statute of limitations for filing a wrongful death lawsuit against someone convicted of manslaughter or found not guilty because of mental disease or defect. Any increase in litigation is anticipated to be absorbable within the normal caseload and budgetary structure of the court system.

The bill could also result in a cost to the Office of Victim Services (OVS) to the extent that low-interest loans (of up to \$100,000, presumably from the Criminal Injuries Compensation Fund) are provided to certain crime victims as compensation for pecuniary loss with repayment beginning five years from the date the loan was awarded. In addition to interest that would be lost by funds otherwise being included in the state's investments, there could also be a cost related to the management of the loan terms including any payment defaults.

The Judicial Department currently receives an appropriation of \$1.9 million from the Criminal Injuries Compensation Fund to use for the compensation of crime victims. This level of appropriation is about the same level of revenue that the fund receives on an annual basis. The Fund currently has a balance of \$1.4 million.

Municipal Impact:

The bill would result in a revenue loss and minimal administrative costs to municipalities from having to waive interest on overdue property taxes of individuals that have received crime victim compensation payments from OVS. The extent to which any of the individuals that receive compensation from OVS have interest on delinquent property taxes is unknown. In FY 99, 393 applications for victim compensation were approved and received compensation awards.

OLR Bill Analysis**sHB 5785*****AN ACT CONCERNING VICTIM'S RIGHTS.*****SUMMARY:**

This bill makes several statutory changes in favor of crime victims. Specifically, it:

1. prohibits a person convicted of any offense involving the use, attempted use, or threatened use of physical force against another person from being released on bail while awaiting sentencing or appealing his conviction;
2. eliminates the statute of limitations for filing a wrongful death lawsuit against someone convicted of manslaughter or found not guilty because of mental disease or defect;
3. permits the Office of Victim Services (OVS) to include low interest loans in compensation payments for pecuniary losses suffered by the spouse or dependent of a murder or manslaughter victim;
4. requires, rather than allows, towns to waive all or a portion of any interest on delinquent property taxes for recipients of victim compensation;
5. permits a photograph of a murder victim to be displayed in the courtroom during the offender's murder trial;
6. specifies that victims who make a statement at sentencing may state their approval or disapproval of any plea agreement;
7. permits a victim impact statement to be read in court at the sentencing hearing of a defendant found guilty of a capital felony;

8. requires victims of violent crimes or the representative or immediate family of such deceased victims to be permitted to attend all court proceedings that are part of the court record; and
9. requires an assistant, or deputy, state's attorney to sign a statement indicating his unsuccessful attempt to notify a victim of the date, time, and place of a sentencing hearing.

EFFECTIVE DATE: October 1, 2000

STATUTE OF LIMITATIONS IN WRONGFUL DEATH CASES

Under current law, a wrongful death lawsuit must be filed within two years from the date of death and five years from the date of the act or omission. The bill eliminates the statute of limitations and allows the lawsuit to be filed at any time.

LOW INTEREST LOANS

The bill permits OVS to provide a low interest loan as compensation for pecuniary losses suffered by the spouse or dependent of a victim of murder or manslaughter. To be eligible for it, the spouse or dependent must otherwise qualify for compensation. The loan may be up to \$100,000 with a maximum interest rate of 1%. The recipients must begin repaying the loan five years after it is awarded.

PHOTOGRAPHS OF DECEASED VICTIMS IN COURTROOMS

The bill allows a photograph that fairly and accurately represents a murdered victim to be displayed in the courtroom, in the jury's presence, during the criminal trial of the person charged with the murder. The photograph cannot be inflammatory on its own.

VICTIM IMPACT STATEMENT

By law, the court can appoint anyone to act as an advocate for a crime victim. The victim advocate has a number of responsibilities, including to prepare a victim impact statement for court files. The bill permits it to be read at the sentencing hearing of defendants convicted of a capital felony.

BACKGROUND

Bail

A court can release a person convicted of any offense, other than murder, on a bond or promise to appear unless it finds custody necessary to assure his appearance in court.

Crime Victim Compensation

The OVS may compensate crime victims, or their immediate families when the victim is deceased, incapacitated, or a minor child, for reasonable and necessary expenses, lost wages, pecuniary losses, and other loss resulting from injury or death. Maximum awards are \$15,000 for personal injuries and \$25,000 for death. Eligible victims must have been injured or killed during (1) their attempt to prevent crime, aid police, or apprehend suspects; (2) attempts to commit or actual commissions of, crime by another person; (3) international terrorism; or (4) another person's violation of enumerated motor vehicle offenses.

Related Bill

sHB 5128, favorably reported by the Judiciary Committee, allows crime victims to apply for crime victims' compensation (1) up to two years after they discover or reasonably should have discovered that they were victimized or (2) by December 30, 2000, whichever is later.

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Substitute

Yea 37 Nay 0